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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,994	06/15/2001	Gabrie Hoogland	08CV07429	9843

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EXAMINER

MUSSER, BARBARA J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,994

Applicant(s)

HOOGLAND ET AL.

Examiner

Barbara J. Musser

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20-24, and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how this claim further limits the independent claim as the independent claim already requires the substrate to have a decorative area (surface) and transferring at least a portion of the decorative surface to the base. It is unclear exactly what is being transferred as claim 20 states a portion of the decorative area is transferred but claim 23 states that only a portion of the portion of the decorative area is transferred. It is suggested this claim be canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor et al. in view of Maresca et al.(U.S. Patent 4,788,249)

Art Unit: 1733

MacGregor et al. discloses forming an article by placing a cyclo-aliphatic polyester substrate in a mold and injection molding behind it. (Col. 1, ll. 25-30, 56-58) The substrate is a mixture of cyclo-aliphatic polyester and polycarbonate which can contain colorants and stabilizers. (Col. 6, ll. 52-61) The reference does not disclose the substrate containing an impact modifier but does disclose the injection molded material can contain an impact modifier. (Col. 9, ll. 56-66) Impact modifiers provide the resins with excellent impact resistance and stiffness. (Col. 9, ll. 64-65) Maresca et al. discloses it is known to include impact modifiers as well as stabilizers and pigments (Col. 13, ll. 7-10) in compositions containing cycloaliphatic polyesters which are used as films. (Col. 2, ll. 59-65; Col. 13, ll. 17-20; Col. 16, ll. 11) It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an impact modifier in the substrate since this would increase the impact strength of the substrate which would hit the surface first when falling, particularly since Maresca et al. discloses it is known to include impact modifiers in films containing cycloaliphatic polyesters. (Col. 15, ll. 65- Col. 16, ll. 11)

Regarding claims 3-15, 17, 18, 20, and 21, the rejections are as set forth in the previous office action.

Regarding claim 14, Maresca et al. discloses the impact modifier can be 5-25% of the substrate composition. (Col. 16, ll. 5) It would have been obvious to one of ordinary skill in the art at the time the invention was made to pick anywhere within the desired range.

Art Unit: 1733

5. Claims 22-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacGregor et al. and Maresca et al. as applied to claim 21 above, and further in view of the admitted prior art as set forth in the previous office action.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Maresca et al. discloses using an impact modifier in a film containing cycloaliphatic polyester and why an impact modifier is used


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (703)-305-1352 until December 20 when it changes to (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
BJM

  
JEFF H. AFTERGUT  
PRIMARY EXAMINER  
GROUP 1300